

EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:

Pico Power Project)	Docket No. 02-AFC-3
Evidentiary Hearing)	
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CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, MAY 7, 2003

9:05 a.m.

Reported by
Peter Petty
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Arthur Rosenfeld, Second Member

HEARING OFFICER AND ADVISORS PRESENT

Gary D. Fay, Hearing Officer

STAFF AND CONSULTANTS PRESENT

Dick Ratliff, Staff Counsel

Matthew Trask, Project Manager

PUBLIC ADVISOR

Roberta Mendonca

APPLICANT

Scott A. Galati, Galati & Blek, LLP

Leslie J. Ward, Silicon Valley Power

John C. Roukema, P.E., Silicon Valley Power

James H. Pope, Silicon Valley Power

Andrea Grenier, Grenier & Associates

Douglas M. Davy, Ph.D., Tetra Tech FW, Inc.

Suzanne L. Burnell, LHG, Tetra Tech FW, Inc.

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P R O C E E D I N G S

9:04 a.m.

HEARING OFFICER FAY: This is the first evidentiary hearing for the Application for Certification of Pico Power Project. I am Gary Fay, the Hearing Officer for the Energy Commission committee, and to my left is Commissioner Art Rosenfeld, the second Member of the committee.

The Presiding Member, John Geesman, could not be here today, he is over at the State Senate on very important business having to do with his confirmation. However, Commissioner Geesman does expect to be with us at the next hearing on June 11th.

At this time I'd like to take introductions. Mr. Galati?

MR. GALATI: Good morning, Commissioner Rosenfeld. My name is Scott Galati, representing the Silicon Valley Power and the Pico Power Project. To my left is the General Manager of the project, Leslie Ward.

And with us today in the audience and also may be available for questions and answers is Mr. John Roukema, who is the Assistant Director for Silicon Valley Power, and Mr. Jim Pope, who is

1 the Director of Silicon Valley Power.

2 We're also supported by the consultant
3 team, consisting of Andrea Grenier with Grenier
4 and Associates. We also have Mr. Doug Davy, who
5 is the AFC Project Manager for Foster Wheeler, who
6 is now Tetra Tech Foster Wheeler. And with him
7 also supporting is Suzanne Burnell, in the area of
8 water.

9 HEARING OFFICER FAY: Thank you. Mr.
10 Ratliff, for the staff?

11 MR. RATLIFF: Dick Ratliff, counsel for
12 staff. And with me is Matt Trask, the Project
13 Manager.

14 HEARING OFFICER FAY: Thank you. Are
15 any other parties represented here today? Okay.
16 The only other intervenor in the case, I believe,
17 is Cure, and they have not been acted, and
18 apparently are not here today. Ms. Mendonca?
19 On behalf of the Public Advisor.

20 MS. MENDONCA: Good morning. Thank you,
21 Mr. Fay. I would like to say that, at this point
22 in the record, it would be appropriate to
23 summarize the Public Advisor's activities and what
24 we did to facilitate the public's participation in
25 this case.

1 To begin with, when the Energy
2 Commission received the application we began by
3 developing what we call our project description.
4 And it's a one-page easily-read summary of the
5 project, the project location, and how to contact
6 key places at the Energy Commission.

7 We took the project description and then
8 sent the application for certification and 25
9 copies of that project description to the Santa
10 Clara Library.

11 We include in that packet a postcard
12 asking the librarian to let us know when the
13 library is open and whether they have a computer
14 for the public to participate, and we keep that
15 information readily available when we receive
16 calls from the public in the Pico case.

17 We contacted the Santa Clara School
18 District, and Nancy Meredith of the district
19 assisted us. We prepared and delivered 600 copies
20 of a project description to each school in
21 December of 2002.

22 We also put 24 project descriptions to
23 Steve Van Dorn, who's President of the Santa Clara
24 Chamber of Commerce. And that project description
25 was then distributed to chamber members.

1 We've attended the informational hearing
2 site visit, which was held in Santa Clara, and
3 also have attended several of the workshops.

4 Probably the most significant public
5 participation came from Mr. Clark Freitag, who had
6 an interest and concern about traffic. My office
7 was able to help him participate in a tele-
8 conference workshop, and his concerns were
9 addressed at that time.

10 We are here today, and know of no public
11 that will be participating. Thank you very much.

12 HEARING OFFICER FAY: Thank you. I'd
13 like to just, also, state for the record that we
14 do have a tele-conference hookup, and I'm informed
15 that nobody has called in at this time, but at any
16 time we hear a tone, we'll let those people know
17 how they can make public comment.

18 What we'd like to do is focus all the
19 evidence and comments about any of the discrete
20 topics at the time we address that topic. And
21 I'll get into that more as we go along.

22 This is the first day of evidentiary
23 hearings for the Pico case. Public notice was
24 issued April 18th, and the notice included the
25 relevant dates, including that of our next hearing

1 on June 11th. Please check your copy of the
2 notice for all filing dates, and extra copies have
3 been handed out.

4 The purpose of these formal evidentiary
5 hearings is to establish the factual records
6 necessary to reach a decision in this case. This
7 is done through the taking of written and oral
8 testimony, as well as Exhibits from the parties.

9 In this case only staff and applicant
10 are presenting evidence, and they will do so
11 consisting of sworn testimony or testimony
12 submitted with declarations and exhibits on each
13 topic area.

14 The presentations will follow the agenda
15 reflected in Attachment A, with the exception that
16 we will not take up biological resources today,
17 but put it over to June 11th.

18 The parties have previously filed with
19 the Commission's docket unit, and served upon each
20 other copies of all testimony to be presented
21 today. Witnesses will testify under oath or
22 affirmation, and be subject to cross-examination
23 by other parties who have intervened in this case.

24 However, since today's topics are not in
25 dispute, and no party has indicated a need for

1 cross-examination, written pre-file testimony may
2 be introduced, with a declaration by the witness
3 who prepared the testimony and signed under
4 penalty of perjury.

5 Applicant has delivered to my office a
6 file reporting to contain all Exhibits it intends
7 to produce today. Mr. Galati, have all copies of
8 those Exhibits been filed with the docket unit?

9 MR. GALATI: Yes, they have.

10 HEARING OFFICER FAY: Okay. And we also
11 have copies of the Exhibit list available, and I
12 hope everybody will make use of that so that we
13 make very clear for the record within each topic
14 area what Exhibits are being referred to.

15 Or, if it's a long list, at least what
16 part in the written file testimony contains the
17 list, that sort of thing. So we have a clear
18 reference in the transcript to the record.

19 Parties sponsoring a witness shall
20 briefly establish the witnesses' qualifications,
21 or indicate that they are in the written filing,
22 and have the witness or other representative
23 orally summarize the prepared testimony.

24 Since staff will follow applicant
25 brief's topic area, staff may choose to wait for

1 summary or merely supplement the summary provided
2 by the applicant.

3 While addressing a topic, each party
4 shall either identify the specific Exhibits
5 supporting its testimony or refer to the location
6 in the pre-file testimony. This is, again, to
7 ensure that we have a clear record in the
8 transcript.

9 After a witnesses' direct testimony,
10 we'll provide the other parties an opportunity for
11 cross-examination, although during pre-conference
12 the parties indicated that they did not anticipate
13 any, but we're not precluding it, I just want to
14 make that clear.

15 Ms. Mendonca has addressed her outreach
16 efforts with members of the public, and we've
17 indicated the opportunities to comment and the
18 telecon that we've set up.

19 The topics to be addressed, as I said,
20 are in Attachment A, with the noted exception of
21 biological resources. That topic, and air quality
22 alternatives, will be addressed on June 11th.

23 And after taking evidence on the topics
24 today, we'll conduct a brief pre-hearing
25 conference to discuss whether the parties are

1 ready to go forward on the three topics for June
2 11th.

3 So, before we begin, are there any
4 questions? Okay, I see no indication. Mr.
5 Galati?

6 MR. GALATI: Mr. Fay, Commissioner
7 Rosenfeld, at this time I'd like to give a brief
8 project description. We have previously filed
9 written testimony, which I will identify.

10 There are two areas in the project
11 description that I'd like to provide oral
12 testimony on, and they basically deal with the
13 project objective and purpose, and also the
14 schedule for achieving that objective.

15 So, at this time, I'd like to call Mr.
16 John Roukema and Mr. Leslie Ward to be sworn.
17 Whereupon,

18 JOHN ROUKEMA
19 was called as a witness and herein, after being
20 duly sworn, was examined and testified as follows:
21 Also, whereupon,

22 LESLIE WARD
23 was called as a witness and herein, after being
24 duly sworn, was examined and testified as follows:

25 HEARING OFFICER FAY: Mr. Galati, will

1 you need both witnesses on the microphone, or?

2 MR. GALATI: Actually, I will. And I
3 think Mr. Roukema could stand at the podium.

4 HEARING OFFICER FAY: Okay. I just want
5 the witnesses to be comfortable.

6 MR. GALATI: We'll start with Mr. Leslie
7 Ward. Mr. Ward, can you briefly state your name
8 and your role on the Pico Project?

9 MR. WARD: Thank you. I'm Leslie Ward,
10 I'm the General Manager for the Pico Power Plant
11 Project.

12 MR. GALATI: And Mr. Ward, you were
13 hired by Silicon Valley Power?

14 MR. WARD: Yes. I am hired as a
15 consultant to the Silicon Valley Power.

16 MR. GALATI: And do you have the overall
17 responsibility for constructing the project?

18 MR. WARD: My responsibilities include,
19 but are not limited to, the development of the
20 project, the permitting of the project,
21 engineering and design, construction, startoff
22 conditioning to care, custody and control.

23 MR. GALATI: Mr. Roukema, could you
24 please state your name and who you are employed
25 by, and what your role is with your employer?

1 MR. ROUKEMA: My name is John Roukema,
2 and I'm the Assistant Director of electric utility
3 for Silicon Valley Power, the city of Santa
4 Clara's municipal utility.

5 MR. GALATI: And Mr. Roukema, could you
6 briefly describe why Silicon Valley Power is
7 pursuing the development and construction of the
8 Pico Power Project?

9 MR. ROUKEMA: Certainly. As I said
10 before, Silicon Valley Power is the city of Santa
11 Clara's municipal utility, and has provided Santa
12 Clara clean, reliable, competitively priced power
13 since 1896.

14 Ninety percent of our customers are
15 commercial and industrial customers, and reliable
16 and stably priced power is extremely important to
17 the economy of Santa Clara and the Silicon Valley
18 Power.

19 We have a major contract that is being
20 restructured with the Western Area Power
21 Administration, so in 2005, 40 to 50 percent of
22 our energy is actually going to go away, and this
23 plant is going to be very important in replacing
24 that power.

25 Now, currently we do generate 40 percent

1 of our energy needs through plants we own, and the
2 addition of this plant will be a very important
3 part to ensure that we are self-sufficient and can
4 continue to meet the needs of our customers in
5 Santa Clara.

6 MR. GALATI: Mr. Ward, would you briefly
7 summarize what the power plant component of the
8 project is?

9 MR. WARD: Yes. The power train
10 consists of -- there's two power trains, and each
11 power train will consist of a General Electric LM-
12 6000 aeroderivative combustion turbine, and the
13 heat recovery steam generator manufacturer is ATS.
14 And the one steam turbine manufacturer is
15 Mitsubishi.

16 MR. GALATI: And what is the nominal net
17 generating capacity?

18 MR. WARD: 122 megawatts.

19 MR. GALATI: And will the project have
20 the ability to duct-fire?

21 MR. WARD: Yes. The maximum net of the
22 power plant will be 50 megawatts. That gives us
23 approximately ten megawatts per strand.

24 MR. GALATI: Can you briefly describe
25 the acreage of the power plant site?

1 MR. WARD: The power plant site is
2 small, two and a half acres of functional parcels
3 that we are to build the power island primarily
4 on. Adjacent, across the Duane Lafayette, are a
5 half an acre that we'll build the gas compressor
6 site on.

7 MR. GALATI: And would you describe the
8 power plant site as a brownfield site?

9 MR. WARD: Yes, I would. There's an
10 existing 115 KV receiving station onsite, and
11 there's also a 60 KV distribution substation on
12 site, and that has been there since the mid-40's,
13 it appears.

14 MR. GALATI: Where will the project
15 interconnect for transmission?

16 MR. WARD: The project will interconnect
17 for transmission onsite. We will build a new 115
18 KV substation switch yard adjacent to the power
19 islands, which will transmit the new electricity
20 into the existing onsite Kifer receiving station,
21 or over to the existing 115 KV Scott receiving
22 station.

23 MR. GALATI: And Mr. Ward, what is the
24 project's proposed water supply?

25 MR. WARD: The project will have two

1 water supplies. The primary water supply will be
2 for raw water use -- will be the existing recycled
3 water coming through the site property.

4 The second water source would be for de-
5 mineralized water for process, and that will be
6 potable water.

7 MR. GALATI: And can you briefly
8 describe the fuel source for the project?

9 MR. WARD: The fuel source is natural
10 gas, and --

11 MR. GALATI: And how about the length of
12 the linear?

13 MR. WARD: The natural gas will be 2.1
14 miles from the existing PG&E transmission line to
15 the compressor site.

16 MR. GALATI: And what is the project's
17 proposal for handling waste water?

18 MR. WARD: The waste water will be
19 transmitted into the existing Santa Clara sanitary
20 sewer.

21 MR. GALATI: At this time, I have no
22 further questions from the panel unless the
23 committee is interested in a more detailed project
24 description.

25 HEARING OFFICER FAY: Um, I just have

1 one question of Mr. Roukema. Do you know, or can
2 you share with us, why the Western contract is not
3 being continued?

4 MR. ROUKEMA: Yes. The Western Area
5 Power Administration had entered into a number of
6 contracts many years ago with the Pacific Gas and
7 Electric Company to support their sales to their
8 Western customers. Those contracts expire at the
9 end of 2004, and Western has chosen not to renew
10 those contracts.

11 So then, the supplemental energy is no
12 longer available to them, and they revert to just
13 the energy that is produced by the central valley
14 projects, not Western markets.

15 HEARING OFFICER FAY: Okay, is there any
16 flexibility to gain power through the existing
17 arrangement if you can't meet your deadline for
18 when the contract terminates?

19 MR. ROUKEMA: Well, essentially, there's
20 not a lot of flexibility. We probably could work
21 with Western for them to procure energy on the
22 market. Otherwise, we would probably just procure
23 it ourselves directly from the market if it was
24 available, you know, and as it is available on the
25 market. That's essentially the prior

1 alternatives.

2 HEARING OFFICER FAY: All right. Thank
3 you. Any cross from the staff?

4 MR. GALATI: I apologize. Could I ask
5 one more clarifying question?

6 HEARING OFFICER FAY: Sure.

7 MR. GALATI: Mr. Ward, you described the
8 project's water supply. Could you clarify what
9 the water will be used for its DM water system.

10 MR. WARD: Yes. The DM system will
11 consist of recycled water treated and processed
12 through a demineralized system for processed
13 water.

14 MR. GALATI: I do have one more question
15 of the panel in general. Do you take any
16 exception with the staff's recitation of the
17 project description, or is there agreement on
18 that?

19 MR. WARD: I take no exceptions to it,
20 to the existing project staff description.

21 MR. GALATI: Okay, thank you. Mr. Fay,
22 would you like me to identify the Exhibits
23 specifically for this topic area or after staff?

24 HEARING OFFICER FAY: Yes, please. You
25 can just do it by Exhibit number.

1 MR. GALATI: Okay. Exhibit 1, the AFC,
2 and chapter two, specifically, is the project
3 description. And Exhibit 11 is applicant's
4 comments on staff assessment, part one. And the
5 project description, previously written testimony,
6 is Exhibit 12.

7 HEARING OFFICER FAY: Thank you. Just
8 for general reference on all these things. If the
9 whole Exhibit is not exclusive to the topic we're
10 dealing with, as we discussed before, please give
11 me a page reference or section reference,
12 something like that, so we have a fairly discreet
13 reference. But this is fine what you've done.
14 Thank you.

15 I want to thank the panel for that
16 information. All right, Mr. Ratliff, anything
17 from the staff?

18 MR. RATLIFF: In terms of cross-
19 examination we won't be cross-examining any
20 witnesses today. Mr. Trask did the project
21 description testimony for the staff, in the staff
22 FSA, which is Exhibit 29. And I would just ask
23 Mr. Trask if he has anything to add to the depth
24 that we've already had.

25 HEARING OFFICER FAY: Let's ask the

1 Court Reporter to swear Mr. Trask, please?

2 Whereupon,

3 MATTHEW TRASK

4 was called as a witness and herein, after being
5 duly sworn, was examined and testified as follows:

6 MR. TRASK: I really have nothing to add
7 to the applicant's summary.

8 HEARING OFFICER FAY: No disagreement?

9 MR. TRASK: None whatsoever.

10 HEARING OFFICER FAY: And Mr. Trask,
11 just reference today, since you're the resident
12 expert -- to the extent you feel comfortable with
13 your knowledge and expertise weighed in, if
14 there's anything you wish to add or point anything
15 out to the committee, since most of the
16 descriptions will come from the applicant today.

17 All right. Thank you very much. We will
18 skip over biological resources and take that up on
19 June 11th. Applicant filed a letter and requested
20 that, and explaining why. They're looking for a
21 little assurance from the U.S. Fish and Wildlife
22 Service and that has not come forth yet.

23 So we'll move to cultural resources.

24 Mr. Galati?

25 MR. GALATI: Okay. At this time I'd

1 like to call Mr. Doug Davy.

2 Whereupon,

3 DOUGLAS DAVY

4 was called as a witness and herein, after being
5 duly sworn, was examined and testified as follows:

6 MR. GALATI: Mr. Davy, can you state
7 your full name, your employer, and briefly
8 summarize your qualifications?

9 MR. DAVY: I am Douglas Davy, I am
10 employed by Tetra Tech FW, formerly Foster Wheeler
11 Environmental Corporation.

12 MR. GALATI: And Mr. Davy, what was your
13 involvement in the Pico project licensing?

14 MS. DAVY: My role in the project is as
15 a consultant to Silicon Valley Power. I supervise
16 the preparation of the application for
17 certification, and the technical team preparing
18 the analyses.

19 MR. GALATI: And are you familiar with
20 Exhibit 14, the cultural resources testimony of
21 Jenna Farrell?

22 MR. DAVY: Yes, I am.

23 MR. GALATI: We would ask to submit this
24 testimony upon declaration, contained in Exhibit
25 14, of Jenna Farrell. And to sponsor the

1 following Exhibits: Exhibit 1, Section 8.3. And
2 Mr. Fay, specifically, at pages 8.3, 22, and 23 in
3 the discussion of impacts.

4 And specifically at table 8.3-3, which
5 is found on page 8.3, 23, is the discussion of the
6 LORS.

7 HEARING OFFICER FAY: Thank you. And
8 we'll ask the parties to move their Exhibits at
9 the end, after we go over all the topic areas. I
10 think it would be more convenient.

11 MR. GALATI: Would you like me to
12 identify them now?

13 HEARING OFFICER FAY: I would. Please
14 identify them, but at the end we can just move
15 them all in at once.

16 MR. GALATI: This testimony is also
17 being sponsored in Exhibit 2, the applicants
18 responses to data accuracy request. Exhibit 3,
19 applicants response to first set of data request,
20 number 23 through 29. And Exhibit 11 is already
21 sponsored. And that concludes the testimony on
22 cultural resources unless the committee has
23 questions.

24 Oh, excuse me. Mr. Davy, it Exhibit 14
25 there is a opinion and conclusion that

1 specifically says you've reviewed the staff
2 assessment and addendum and concur with the
3 results. Can you tell the committee whether or
4 not you concur with the proposed conditions of
5 certification in cultural resource section of the
6 staff assessment and addendum?

7 MR. DAVY: We concur with staff's
8 proposed conditions of certification.

9 MR. GALATI: No further questions, Mr.
10 Fay.

11 HEARING OFFICER FAY: Okay, thank you.
12 Are there any questions from the staff? All right. Thank
13 you, Mr. Davy. All right, Mr. Galati, hazardous
14 materials? Oh, sorry, I'll just ask if there's
15 any comment. If anybody is on the line or in the
16 audience and wants to comment on cultural
17 resources?

18 Okay, fair enough, go ahead.

19 MR. GALATI: Mr. Davy, are you familiar
20 with Exhibit 15, hazardous materials testimony of
21 Doug Ury?

22 MR. DAVY: Yes, I am.

23 MR. GALATI: And are you sponsoring that
24 Exhibit today?

25 MR. DAVY: I am sponsoring that Exhibit.

1 MR. GALATI: Mr. Fay, in that Exhibit
2 Mr. Davy is also sponsoring a portion of Exhibit
3 1, the AFC Section 8.5, and specifically
4 construction impacts are identified and analyzed
5 at 8.5, pages 9 through 13.

6 And the operational impacts are analyzed
7 at page 14 through 15 of Section 8.5, and the LORS
8 conformance is summarized on table 8.5-7 on page
9 8.5-19 of the AFC. No further questions for the
10 area of hazardous materials.

11 HEARING OFFICER FAY: Any questions from
12 the staff?

13 MR. RATLIFF: No.

14 HEARING OFFICER FAY: And I note in the
15 written testimony that the applicant concurs with
16 the staff assessment and the staff addendum, and
17 the conditions therein, is that correct?

18 MR. GALATI: Yes.

19 HEARING OFFICER FAY: All right. Any
20 comments on hazardous materials? Hearing none,
21 let's move to land use.

22 MR. GALATI: Mr. Davy, are you familiar
23 with Exhibit 17, the land use testimony of Brent
24 Moore?

25 MR. DAVY: Yes, I am familiar with it.

1 MR. GALATI: Would you agree with the
2 conclusion of that testimony, that the applicant
3 agrees with the staff assessment addendum and the
4 conditions of certification?

5 MR. DAVY: Yes, I agree with the
6 conclusion.

7 MR. GALATI: Mr. Fay, in addition to
8 Exhibit 17, Mr. Davy will be sponsoring Exhibit 1,
9 AFC, Section 8.6, specifically the impacts are
10 discussed at pages 15 and 16 of Section 8.6, and
11 the LORS is summarized in a table identified as
12 8.6-2 on page 18 of Section 8.6 of the AFC.

13 In addition to that Exhibit, the
14 testimony sponsors Exhibit 3, responses to first
15 set of CEC data requests, responses number 32
16 through 41. Exhibit 5, which is a supplement to
17 the AFC relating to land use and waste management,
18 and Exhibit 11 is already sponsored. I have no
19 further questions or evidence on land use.

20 HEARING OFFICER FAY: Thank you. Mr.
21 Ratliff?

22 MR. RATLIFF: No.

23 HEARING OFFICER FAY: Any public
24 comments regarding land use? Okay, hearing none,
25 we'll move on to noise and vibration.

1 MR. GALATI: Mr. Davy, are you familiar
2 with Exhibit 18, noise and vibration testimony of
3 Tom Adams?

4 MR. DAVY: Yes, I'm familiar with the
5 Exhibit.

6 MR. GALATI: Would you agree with the
7 conclusions in that testimony, that the applicant
8 agrees with the staff assessment and addendum, and
9 the conditions of certification?

10 MR. DAVY: I agree with the conclusions.

11 MR. GALATI: Mr. Fay, in addition to
12 Exhibit 18, the applicant, through Mr. Davy, is
13 sponsoring a portion of Exhibit 1, specifically
14 Section 8.7 relating to noise and vibration. On
15 pages 16 through 24 of Section 8.7 the impacts are
16 discussed.

17 The applicant's mitigation is identified
18 on pages 21 through 23 of Section 8.7, and the
19 LORS pertaining to noise and vibration are
20 summarized on table 8.7-6, which is on page 24 of
21 Section 8.7 of the AFC.

22 We have no further questions or
23 testimony on noise and vibration.

24 HEARING OFFICER FAY: Mr. Ratliff?

25 MR. RATLIFF: No comments.

1 HEARING OFFICER FAY: Okay. Mr. Davy, I
2 have a brief question. In your comments that were
3 filed in response to the staff assessment you
4 seemed to accept that, in condition noise 8, that
5 high-pressure steam blowers would be excluded on
6 Sundays and holidays.

7 And given the delays that you've
8 experienced in licensing, is that compatible with
9 a accelerated construction schedule to meet your
10 deadline, and are there other parts of the noise
11 requirements that are potentially incompatible
12 with an accelerated schedule?

13 MR. GALATI: Mr. Fay, if I could try to
14 summarize here quickly, I could probably clarify,
15 if that's okay with counsel. I think the answer
16 to that question is yes, and specifically the
17 noise conditions were modified to remove barriers
18 associated with construction of the linears, and
19 to allow low pressure steam blows to occur on
20 other dates as well.

21 But our high-pressure steam blows will
22 be regulated under a separate condition that sets
23 a separate noise limitation on them. So I think
24 that we're okay with the conditions as is, and we
25 think we can meet our accelerated schedule.

1 HEARING OFFICER FAY: Okay. And that
2 goes for all construction noise, not just the
3 steam blows?

4 MR. GALATI: That's correct. To
5 summarize specifically, we proposed some changes
6 in the staff assessment workshop, and then in
7 writing on our comments that the noise staff
8 accepted, and changed in the addendum to meet the
9 agreement that we had with staff.

10 Specifically dealing with the
11 construction noise along linears.

12 HEARING OFFICER FAY: Very good. Thank
13 you. Any public comments regarding noise? Okay,
14 I hear none. Let's move ahead to public health
15 then.

16 MR. GALATI: Mr. Davy, are you familiar
17 with Exhibit 19, which is the testimony of Richard
18 B. Booth, on public health?

19 MR. DAVY: Yes, I am.

20 MR. GALATI: Would you agree and concur
21 with the opinions and conclusions of Mr. Booth
22 that the applicant agrees with the staff
23 assessment, the staff assessment addendum, and
24 specifically agrees with the conditions of
25 certification?

1 MR. DAVY: Yes, I do.

2 MR. GALATI: In addition to Exhibit 19,
3 the applicant is sponsoring a portion of Exhibit
4 1, specifically Section 8.9 related to public
5 health. The analysis is identified on table 8.9-
6 4, which is on page 8.9-9.

7 That's a summary of the analysis
8 results, as well on page 8.9-5 on page 10 of
9 Section 8.9. Those two tables summarize the
10 results of the health risk analysis done for
11 public health.

12 HEARING OFFICER FAY: Anything, Mr.
13 Ratliff?

14 MR. RATLIFF: We have nothing to add.

15 HEARING OFFICER FAY: And committee has
16 no questions. Are there any public comments
17 regarding the public health impacts of the
18 project? This topic is related to air quality,
19 and we will be addressing all the air quality
20 aspects on June 11th.

21 All right, let's move to socioeconomic
22 resources.

23 MR. GALATI: Mr. Davy, are you familiar
24 with Exhibit 20, which is your testimony
25 previously filed on socioeconomics?

1 MR. DAVY: Yes, I am.

2 MR. GALATI: And in that testimony you
3 offered an opinion that you agree with the staff
4 assessment and staff assessment addendum. Is that
5 your current opinion at this time?

6 MR. DAVY: Yes, I do.

7 MR. GALATI: Mr. Fay, in addition to
8 Exhibit 20. section 8.10 of the AFC is being
9 sponsored by Mr. Davy, which is Exhibit 1. And
10 Exhibit 2 and Exhibit 11 are already sponsored.
11 I'd point out that there are no conditions of
12 certification proposed by the staff in
13 socioeconomics.

14 HEARING OFFICER FAY: Nor is it
15 addressed in the addendum.

16 MR. GALATI: What's that?

17 HEARING OFFICER FAY: Nor is it
18 addressed in staff addendum. All right, anything
19 from staff on socioeconomics?

20 MR. RATLIFF: No.

21 HEARING OFFICER FAY: Okay. Any
22 comments? Okay. Thanks very much. Let's move to
23 soil and water resources.

24 MR. GALATI: Mr. Fay, at this time I
25 wonder if I can prevail upon the committee to give

1 applicant and staff five minutes. We've been
2 unable to connect on soil and water resources, or
3 we could take soil and water resources out of
4 order at the end.

5 There appears to be possibility of an
6 agreement, and we just have not had an opportunity
7 to do that.

8 HEARING OFFICER FAY: Let's just take
9 the time now. Good idea.

10 (Off the record.)

11 HEARING OFFICER FAY: Let's go back on
12 the record. We took a little break for the
13 parties to consult with each other on soil and
14 water. Mr. Galati?

15 MR. GALATI: Mr. Fay, Commissioner
16 Rosenfeld, if I could explain to you where we are
17 on soil and water resources, and give you the
18 feeling that we will come to resolution on it.

19 There are two conditions of
20 certification that we had proposed modifications
21 to in our comments on the staff assessment.

22 The first is Soil and Water 6. Soil and
23 Water 6 deals with the conditions where the
24 project can use its backup water supply, and the
25 applicant had proposed that a very similar

1 condition that was issued in Russell City be used
2 to handle that event.

3 And specifically at issue, in the
4 Russell City decision there is some Act of God
5 language. There's some language that would
6 automatically relieve the constraints on using the
7 backup supply that we believe -- the way Soil and
8 Water 6 is worded now -- without that language, it
9 might be argued at later times by different people
10 who are not involved in the case that you have to
11 come back to the Commission for a determination on
12 that issue.

13 We proposed that to staff, and staff's
14 response was that's something that they felt was
15 probably up to the committee to decide. We don't
16 believe that's something we need testimony on, and
17 we don't believe we need to have cross-examination
18 on, and that we can handle in our briefs on that
19 matter.

20 In Soil and Water condition 8, this was
21 a condition that was crafted. There is an upper
22 aquifer and a lower aquifer that this backup water
23 supply -- that's the regime in which this backup
24 water supply is going to operate. It will be
25 sealed such that it pumps water from the lower

1 aquifer.

2 In the region there is some
3 contamination of the upper aquifer. And staff was
4 concerned, and Santa Clara Valley Water District
5 was concerned, about the potential of vertical
6 migration from the upper aquifer to the lower
7 aquifer of contamination.

8 At the staff assessment workshop we had
9 good dialogue with staff, and we proposed a
10 particular rewording of Soil and Water 8. Staff
11 reviewed our wording of Soil and Water 8 and came
12 back with the same approach, but different words.
13 And we have reviewed that, and that is contained
14 in that addendum. And there is one word in that
15 condition that we're currently having dialogue
16 about.

17 Specifically, the condition prohibits or
18 -- I wouldn't say prohibits -- the condition
19 focuses on the transfer of water from the upper
20 aquifer to the lower aquifer. We would prefer
21 that what we're focusing on is the transfer of
22 contamination from the upper aquifer to the lower
23 aquifer.

24 So we have proposed that, in Soil and
25 Water 8, where the second bullet identified water,

1 we would like that word substituted for
2 contamination. We've had the discussions with
3 staff, I think we're not unable to come to
4 agreement. I don't think we have the right
5 technical people yet talking about that issue.

6 What we would propose to do is to leave
7 the record open on that issue, and have staff file
8 something additional, after they are able to talk
9 with their staff.

10 So what I propose to do is that we go
11 through soil and water, and leave the record open
12 on the issue of Soil and Water 8, and have the
13 dispute on Soil and Water 6 be handled in briefs.

14 HEARING OFFICER FAY: And when would we
15 get a response on Soil and Water 8?

16 MR. RATLIFF: Well, certainly we would
17 want to give it to you as soon as we could. We
18 might be able to do it today, but certainly in the
19 next couple of days we would get it to you.

20 The first issue, of course, is the issue
21 of whether or not there should be some kind of
22 force majeure provision, and --

23 COMMISSIONER ROSENFELD: I can't quite
24 hear you.

25 MR. RATLIFF: I'm sorry. The first

1 issue is whether there should be some kind of
2 force majeure provision allowing them to use their
3 well to pump for water in case of what is
4 sometimes called an Act of God, an earthquake or
5 some other very unusual situation that required
6 them to do so.

7 And certainly I don't think we object in
8 principle to force majeure. I don't know why we
9 didn't resolve this already, but since we need to
10 talk to the technical staff about it, I would like
11 to see if we can get some agreement on that issue
12 after talking to the technical staff, and then
13 provide something to the committee to tell you
14 that that either is or isn't okay.

15 And if it isn't okay, then I think Mr.
16 Galati's suggestion that we deal with it in briefs
17 is probably the best way to deal with it.

18 And then, secondarily, the issue of
19 whether it is water moving from one aquifer to
20 another or contamination is a technical issue that
21 we feel like we have to talk with our analysts
22 about before we agree to it.

23 So we would like to deal with that
24 through a submittal that we would give you this
25 week, and hopefully tomorrow, saying that it's

1 okay to change that word or it's not, and the
2 reason why.

3 HEARING OFFICER FAY: Okay, so, what,
4 within a week from today we'd get something in
5 writing from staff and both --

6 MR. TRASK: Certainly within less than a
7 week. I just had a couple of things to add. I
8 don't believe it will be a problem, but the
9 situation in Russell City was slightly different
10 in that I believe the backup water supply there
11 was potable water, rather than from a groundwater
12 well.

13 And there is one other very minor issue.
14 We got a letter from the city of Santa Clara on
15 Monday clarifying some wastewater discharge
16 requirements for the administration building that
17 is planned as part of the construction of the
18 project.

19 It requires perhaps some minor updating
20 of our section, I actually don't believe it will,
21 but we need to check on that. So that's another
22 minor issue to leave the record open for. But
23 again, we'll resolve that in less than a week.

24 HEARING OFFICER FAY: Help me out. It
25 seems if the Commission allowed this flexibility

1 in Russell City and potable water was involved,
2 then that is a more sensitive situation than here.
3 So, I don't know why we would need a less flexible
4 standard in this case. You know, I handled the
5 Russell City case so I do recall this.

6 But the Commission I think was
7 comfortable in trusting the CPM to, sort of,
8 determine whether or not the applicant was correct
9 in saying it was a force majeure situation.

10 MR. TRASK: I think we're probably at
11 least 90 percent in agreement, and I can't even
12 think of a factor of why we wouldn't agree to
13 that, but I do want to check with my analysts.

14 HEARING OFFICER FAY: All right.
15 Anything further, Mr. Galati?

16 MR. GALATI: No, I'd like to go on the
17 record then, and bring my witness up and sponsor
18 the rest of the testimony on soil and water
19 resources, if that's okay?

20 HEARING OFFICER FAY: Okay, sure.
21 Whereupon,

22 SUZANNE BURNELL
23 was called as a witness and herein, after being
24 duly sworn, was examined and testified as follows:

25 MR. GALATI: Ms. Burnell, could you

1 please state your full name for the record, who
2 you're employed by, and what your role is on the
3 Pico Power Project?

4 MS. BURNELL: Certainly. My name is
5 Suzanne Burnell. I'm employed by Tetra Tech FW,
6 formerly Foster Wheeler Environmental, and I'm a
7 water resources specialist for the Pico Power
8 Project.

9 MR. GALATI: Ms. Burnell, are you
10 familiar with your previously filed testimony,
11 Exhibit 21 entitled "Soil and Water Testimony of
12 Suzanne Burnell and Michael J. Fox?"

13 MS. BURNELL: I am familiar with it,
14 yes.

15 MR. GALATI: And in that testimony you
16 identified that you agree with the staff
17 assessment and staff assessment addendum, but you
18 propose changes to Soil and Water 6 and Soil and
19 Water 8, as we previously outlined on the record,
20 is that correct?

21 MS. BURNELL: That is correct, yes.

22 MR. GALATI: In addition to Exhibit 21,
23 Mr. Fay, this testimony also sponsors portions of
24 Exhibit 1, specifically Sections 8.11 on soil
25 resources, and Section 8.15 on water resources.

1 I call your attention to the impacts
2 discussion for water resources on pages 10 through
3 13 of Section 8.15, and also the conclusion on
4 page 21 of Section 8.15. I also call your
5 attention to table 8.15-6, on page 24 of Section
6 8.15, which is a summary of the LORS compliance.

7 In addition to those Exhibits, a portion
8 of Exhibit 3, specifically data responses 53
9 through 65, Exhibit 4, which is a supplemental
10 response to data request 55, and Exhibit 7, which
11 is applicant's statement of work for proposed
12 aquifer test program for the backup supply well.

13 Also Exhibit 8, a portion of those data
14 responses specifically number 66 through 70 are
15 also sponsored by this witness.

16 That concludes our testimony on soil and
17 water resources, and we would ask that the
18 committee allow the record to stay open for the
19 discussion on Soil and Water 6, Soil and Water 8,
20 and, as Mr. Trask outlined earlier, the
21 confirmation on the wastewater discharge.

22 HEARING OFFICER FAY: All right. I think
23 what I'll propose, since staff is going to be
24 making a unilateral filing, is that we receive
25 that, and we'll keep the record open on the

1 question of that condition until the next hearing,
2 just in case applicant needs to respond, or
3 whatever.

4 So, it sounds like it's a fairly narrow
5 question, and we should be able to wrap that up.
6 So you'll just argue the question about Soil and
7 Water 6 in your briefs, is that correct?

8 MR. GALATI: That's great. And we will,
9 as we identify in the pre-hearing conference later
10 to take place on the June 11th hearing, we will
11 make sure we have an affirmative statement in our
12 testimony that we file with those subject matters
13 on what staff filed on water resources.

14 HEARING OFFICER FAY: Very good. Thank
15 you, Ms. Burnell. Mr. Ratliff, anything from the
16 staff on soil and water in addition to what
17 we've --

18 MR. RATLIFF: Well, we have filed our
19 testimony in Exhibit 29, and in the addendum,
20 Exhibit 30, and have submitted that. I believe
21 that, with the exception of the two items that we
22 just discussed, we are in basic agreement on all
23 other issues, and we may be in agreement on those
24 issues. We just don't know yet. So I agree with
25 your recommendation that we leave the record open

1 for the time being until we see whether there is
2 agreement on those as well.

3 HEARING OFFICER FAY: Since we're
4 meeting again on June 11th, I think we have a good
5 opportunity to see that this has been fully
6 addressed. Great. Then anything further from the
7 parties on soil and water?

8 MR. GALATI: None for the applicant.

9 HEARING OFFICER FAY: And we will ask if
10 there is any public comment on that topic? I see
11 no indication. Thank you all, so we'll look
12 forward to receiving further information on that.

13 Oh, Mr. Galati, I just wanted to be
14 clear. In your comment on the staff assessment,
15 page 12 -- this is a comment on Soil and Water 8 -
16 - what is the significance of the underlining as
17 opposed to the bold language?

18 MR. GALATI: What page was --

19 HEARING OFFICER FAY: This is page 12 of
20 your initial comments on the staff assessment, and
21 you're addressing Soil and Water 8 at the time,
22 and you have both bold and underline.

23 MR. GALATI: I have public health on
24 page 12.

25 HEARING OFFICER FAY: These are

1 applicant's comments on the staff assessment, soil
2 and water resources.

3 MR. GALATI: That's page 14 in mine.

4 HEARING OFFICER FAY: Really? The copy
5 I have shows that it's page 12. It was filed on
6 April 16th?

7 MR. GALATI: Correct.

8 HEARING OFFICER FAY: But it does stress
9 Soil and Water 8? Just a formatting question, I
10 wasn't sure of the significance?

11 MR. GALATI: Now I see what you're
12 talking about, and I think that that is a mistake.
13 That is, the underlining probably was an internal
14 change as it went through several iterations. It
15 was supposed to be bold and italics to show that
16 it was added. The underline is -- you can
17 disregard the underline, it has no significance.

18 HEARING OFFICER FAY: Okay. So just
19 treat it like the bold. All right. So with the
20 exception of the argument on Soil and Water 6, and
21 keeping the record open on Soil and Water 8, we
22 conclude taking testimony on Soil and Water
23 resources, and move to traffic and transportation.

24 MR. GALATI: Mr. Davy has previously
25 been sworn, he's back on the table again. Mr.

1 Davy, are you familiar with Exhibit 22, which is
2 the traffic and transportation testimony of
3 yourself?

4 MR. DAVY: Yes, I am.

5 MR. GALATI: Okay. And in that
6 testimony, you say that you have reviewed the
7 staff assessment and staff assessment addendum and
8 the conditions of certification and concur with
9 them, is that correct?

10 MR. DAVY: That's correct.

11 MR. GALATI: We understand, Mr. Fay,
12 that there is a potential modification to one of
13 the conditions proposed by staff, so I'd like to
14 identify the exhibits that we have right now, and
15 then reserve the right to call Mr. Davy again to
16 see if he agrees with what staff may be proposing.

17 HEARING OFFICER FAY: Okay.

18 MR. GALATI: And in addition to Exhibit
19 21, a portion of Exhibit 1, Section 8.12, as being
20 sponsored by Mr. Davy, and specifically the
21 impacts analysis, begins on page 8 of Section 8.12
22 and concludes on page 19.

23 The operational impacts are identified
24 on page 22 of Section 8.12, and mitigation
25 measures are outlined on page 24. On table 8.12-

1 9, which is on pages 25 and 26 of Section 8.12,
2 the LORS applicable to traffic and transportation
3 are outlined.

4 In addition to those Exhibits, Mr. Davy
5 is sponsoring a portion of Exhibit 3, specifically
6 responses 42 and 43. A portion of Exhibit 9,
7 specifically responds to 71 through 73. That
8 concludes our Exhibits.

9 HEARING OFFICER FAY: All right. Thank
10 you. Does staff have any cross-examination or
11 anything else?

12 MR. TRASK: Yes, Mr. Fay. We received a
13 late communication from city of Santa Clara's
14 traffic engineer, Mr. Dave Pitton, with some minor
15 concerns about one of the alternate routes that we
16 had identified in the addendum on page 2-21.

17 There's also been some clarification
18 from the applicant about the use of railways for
19 delivery of some of the major components to the
20 project. The gist of it is that the city was a
21 little bit uncomfortable with the use of one of
22 the routes, so we have proposed some language
23 which the applicant has agreed to, essentially of
24 truing up some of the routes for the use of this
25 alternate route.

1 We are in agreement; however, I haven't
2 had a chance to run this by management. Again, I
3 don't anticipate any problems, but I would like to
4 hold the record open until I can get this
5 reviewed.

6 HEARING OFFICER FAY: And which
7 condition?

8 MR. TRASK: That would be condition
9 Trans 7.

10 HEARING OFFICER FAY: So, this is more
11 in the way of clarification and getting the
12 language in, rather than any kind of dispute, is
13 that correct, Mr. Galati?

14 MR. GALATI: That is correct. And, for
15 the record, we have a copy of the proposed
16 language and assuming that Mr. Trask and staff
17 propose such language we're in agreement with that
18 particular wording today, and I know we don't want
19 to identify it as an Exhibit until it gets
20 management approval to do so, but --

21 HEARING OFFICER FAY: Sure.

22 MR. GALATI: We would be fine in
23 replying to a supplemental filing, just like on
24 Soil and Water 8.

25 HEARING OFFICER FAY: That's what we'd

1 like to see. So in your filing for June 11th,
2 just indicate the agreement if that's the case, or
3 otherwise. So, Mr. Trask, is that on the same
4 timetable, do you think, as soil and water?

5 MR. TRASK: Yes.

6 HEARING OFFICER FAY: Good, good. Now,
7 just to get a flavor for this, what is the concern
8 of the city?

9 MR. TRASK: Their concern was the use of
10 one particular intersection, which I believe is
11 turning on to Comstock Avenue -- well, excuse me,
12 I'll just read, "The third route we had
13 identified was going north on Lafayette Street
14 from either westbound or east bound lanes,
15 followed by a left turn onto Comstock, and then an
16 immediate right turn into the southern perimeter
17 gate for the Pico site."

18 The city was concerned about the
19 intersection, essentially during peak times. It's
20 quite heavily travelled, so the applicant has
21 agreed that they would only use this for the
22 transfer of very heavy loads. It allows a much
23 easier access into the site, but that they will do
24 it during early morning hours, three to six a.m.,
25 and that we would use a flagman to make sure we

1 can control the traffic.

2 HEARING OFFICER FAY: And the city is
3 all right with that?

4 MR. TRASK: I believe so.

5 HEARING OFFICER FAY: Okay. We'll look
6 forward to receiving that language. Does staff
7 have anything else regarding transportation?

8 MR. TRASK: No.

9 HEARING OFFICER FAY: Any comments on
10 transportation? Okay, thank you. Mr. Galati, how
11 about transmission line safety and nuisance?

12 MR. GALATI: Mr. Fay, we have prepared
13 one testimony covering transmission system
14 engineering, and covering transmission line safety
15 and nuisance. It's identified as Exhibit 27. And
16 Mr. Davy, are you familiar with this testimony of
17 Jim Carlson?

18 MR. DAVY: Yes, I am.

19 MR. GALATI: Is it your understanding
20 that Mr. Carlson has reviewed the staff
21 assessment, the staff assessment addendum and
22 concurs with the analysis and the conditions of
23 certification proposed in those documents?

24 MR. DAVY: Yes, I do.

25 MR. GALATI: This testimony sponsors

1 chapter six of Exhibit 1, and specifically the
2 tables in Section 6.4.1 on pages six through nine
3 through 6.12 identify the LORS that are applicable
4 to both transmission system engineering and
5 transmission line safety and nuisance.

6 Also, Exhibit 6, which is the
7 applicant's system impact study, is being
8 sponsored by this witness. And Exhibits 2 and 11
9 have previously been sponsored. No further
10 comments or questions on either transmission
11 system engineering or transmission line safety and
12 nuisance.

13 HEARING OFFICER FAY: Well, I don't want
14 to kind of change our order here, let's just take
15 it one at a time. Staff, anything on transmission
16 line safety and nuisance?

17 MR. TRASK: No.

18 HEARING OFFICER FAY: We're just going
19 by the order in staff assessment. Any comments on
20 transmission line safety and nuisance? Hearing
21 none, we'll move on to visual resources and come
22 back to transmission system engineering in the
23 order indicated.

24 There's no problem with the fact that
25 you've combined those, I just want to be sure that

1 we touch base on all these and don't skip
2 anything.

3 MR. GALATI: Okay. Mr. Davy, are you
4 familiar with your testimony of yourself and Scott
5 Muller on visual resources, identified as Exhibit
6 23?

7 MR. DAVY: Yes, I am.

8 MR. GALATI: And in that testimony, in
9 the opinion and conclusions, you state that you
10 agree with the conditions of certification as
11 modified in the staff assessment addendum, is that
12 correct?

13 MR. DAVY: Yes, we agree with the
14 conditions.

15 MR. GALATI: In addition to Exhibit 23,
16 Mr. Fay, this witness is sponsoring Exhibit 1,
17 Section 8.13, a portion of Exhibit 3, specifically
18 responses 44 through 52. Exhibits 2 and 11, which
19 are already previously sponsored. No further
20 comments or testimony for Exhibits on visual
21 resources.

22 HEARING OFFICER FAY: All right. And
23 anything from the staff?

24 MR. RATLIFF: No.

25 HEARING OFFICER FAY: Okay. And I

1 assume that we're just going to receive all the
2 staff's assessment and addendum at the end. So
3 the fact that you've got nothing further to say
4 means that you're satisfied with what you've
5 already submitted.

6 Okay. I see we've listed visual plume
7 analysis, was that a separate section in the FSA?

8 MR. RATLIFF: No, it's actually combined
9 under visual analysis.

10 HEARING OFFICER FAY: Okay. I think
11 that was just a clerical error then, and not
12 significant.

13 MR. RATLIFF: We did cover it,
14 essentially you could say, in a separate section
15 of the visual resources. It's a separate --

16 HEARING OFFICER FAY: Was that found to
17 not be significant?

18 MR. RATLIFF: Correct. It's covered in
19 appendix BR-2.

20 HEARING OFFICER FAY: Thank you. All
21 right, let's move to waste management.

22 MR. GALATI: Mr. Davy, are you familiar
23 with Exhibit 24, which is the testimony of Doug
24 Ury and Don McArthur, entitled waste management?

25 MR. DAVY: Yes, I am.

1 MR. GALATI: And would you agree with
2 the testimony that Silicon Valley Power agrees
3 with the staff assessment, staff assessment
4 addendum, and agrees with the condition of
5 certification?

6 MR. DAVY: Yes, I agree.

7 MR. GALATI: In addition to Exhibit 24,
8 Mr. Davy is sponsoring a portion of Exhibit 1,
9 specifically Section 8.14, with the impact
10 analysis identified and discussed at page 10
11 through page 13 of 8.14, and the LORS analysis
12 identified on table 8.14-3 on page 13, with a
13 followup discussion on page 14 and 15, indicating
14 LORS compliance of Section 8.14.

15 In addition to that Exhibit and Exhibit
16 24, Mr. Davy is sponsoring Exhibit 5, which is a
17 supplement to the AFC relating to land use and
18 waste management.

19 HEARING OFFICER FAY: All right. Thank
20 you. And is the staff comfortable with the
21 applicant's work on waste management?

22 MR. RATLIFF: Yes, and I believe they're
23 comfortable with the conditions of certification
24 that staff has in its testimony as well.

25 MR. GALATI: Yes, we are.

1 HEARING OFFICER FAY: And as modified in
2 the addendum?

3 MR. RATLIFF: Yes.

4 MR. GALATI: That's correct.

5 HEARING OFFICER FAY: Good. Thank you.
6 Worker safety?

7 MR. GALATI: Mr. Davy, are you familiar
8 with Exhibit 16, which is the testimony of Doug
9 Ury in the worker safety and fire protection area?

10 MR. DAVY: Yes, I am.

11 MR. GALATI: And in that testimony, Mr.
12 Ury opines that he has reviewed and agrees with
13 the staff assessment and staff assessment
14 addendum, is that correct?

15 MR. DAVY: That's right.

16 MR. GALATI: Would you also agree and
17 concur with the proposed conditions of
18 certification in worker safety and fire
19 protection?

20 MR. DAVY: Yes, we agree.

21 MR. GALATI: In addition to Exhibit 16,
22 Mr. Fay, Mr. Ury and Mr. Davy are sponsoring a
23 portion of Exhibit 1, specifically Section 8.16.
24 The identification of construction hazards is
25 specifically identified on table 8.16-1, on page

1 two of Section 8.16, and the operational hazards
2 are identified on table 8.16-2.

3 Health and safety mitigation, and the
4 mitigation plans proposed by the applicant, are
5 summarized on page five through 11 of Section
6 8.16. No additional Exhibits or testimony of
7 worker safety and fire protection.

8 HEARING OFFICER FAY: Okay. Thank you.
9 Anything from the staff on worker safety?

10 MR. RATLIFF: No.

11 HEARING OFFICER FAY: Very good. Any
12 comments on worker safety? Very good. Facility
13 design?

14 MR. GALATI: Mr. Davy, are you familiar
15 with George Claypoole on facility design power
16 plant efficiency and reliability?

17 MR. DAVY: Yes, I am.

18 MR. GALATI: We'll just talk about
19 facility design at this point.

20 HEARING OFFICER FAY: What number is
21 that, Mr. Galati?

22 MR. GALATI: That is Exhibit 25.

23 HEARING OFFICER FAY: Thank you.

24 MR. GALATI: And, Mr. Fay, I would point
25 out that this also combines the testimony of

1 George Claypoole on power plant reliability and
2 power plant efficiency. So you have those
3 identified separately, so we can deal with them at
4 that point.

5 And Mr. Davy, in that testimony of
6 George Claypoole, it states his opinion that he
7 reviews the staff assessment and staff assessment
8 addendum. Is it also your understanding that he
9 agrees with any conditions of certification?

10 MR. DAVY: Yes, it is.

11 MR. GALATI: Unfortunately, Mr. Fay, I
12 can't give you specific citations to this rather
13 lengthy Exhibit being sponsored, but Exhibit 1,
14 chapters 1, 2, 5, 6, and 7, all summarize the
15 complex facility design at the power plant.

16 HEARING OFFICER FAY: Okay. That's
17 fine.

18 MR. GALATI: That is being sponsored in
19 addition to Exhibit 25.

20 HEARING OFFICER FAY: Did staff have any
21 concerns that were not satisfactorily addressed in
22 the written filings?

23 MR. RATLIFF: No.

24 HEARING OFFICER FAY: Any comments
25 regarding facility design? So I take it, in spite

1 of the constrained area of this site, it was felt
2 that this could all be implemented in a reasonable
3 way, as applicant had proposed?

4 MR. TRASK: It's tight, but doable.

5 HEARING OFFICER FAY: Okay. Let's look
6 a geology and paleontology. As we move to that, I
7 just want to again ask if anybody is on the
8 telephone connection, and if so please identify
9 yourself. I hear nothing. Mr. Galati, go ahead.

10 MR. GALATI: Mr. Davy, are you familiar
11 with Exhibit 26, your testimony previously filed
12 on geology and paleontology?

13 MR. DAVY: Yes, I am.

14 MR. GALATI: And in that testimony you
15 state that you reviewed the staff assessment and
16 staff assessment addendum, and you concur with the
17 conditions of certification proposed in those
18 documents. Do you still agree with that?

19 MR. DAVY: Yes, I do.

20 MR. GALATI: In addition to Exhibit 26,
21 Mr. Davy is sponsoring a portion of Exhibit 1,
22 Sections 8.4 and 8.8, and a portion of Exhibit 3,
23 specifically data responses 30 through 31. No
24 further testimony or Exhibits on the area of
25 geology and paleontology.

1 HEARING OFFICER FAY: Okay. We'll ask
2 the staff if they have anything in the area of
3 geology and/or paleontology?

4 MR. RATLIFF: Not in that area, Mr. Fay,
5 but there is something that I think we neglected
6 to mention earlier that I think might --

7 COMMISSIONER ROSENFELD: Will you use
8 the mike? I can barely hear you.

9 MR. RATLIFF: We did neglect earlier to
10 mention something regarding project description
11 that we think we might need to clarify, just to
12 make sure that the committee is aware of it, and
13 particularly for the writing of the decision. And
14 I'll let Mr. Trask describe that.

15 MR. TRASK: We had meant to put a
16 statement in the addendum that we didn't get in
17 there. Early on in the project -- well, an order
18 developed on the project. There is an existing
19 PG&E transmission line that runs over the site
20 right now that needs to be undergrounded.

21 Originally, in discussions with PG&E,
22 the applicant was considering a possible off-site
23 route for the undergrounding of that transmission
24 line. Since then that offsite route has been
25 rejected, it's not going to be needed.

1 Some of our analysis addresses that, if
2 this line is moved off-site, certain things would
3 be required. I'd just like to state for the
4 record that that line will not be off-site, and
5 therefore all references to any conditions that
6 would be applicable if it was moved off-site are
7 no longer in staff's analysis.

8 HEARING OFFICER FAY: Thank you for that
9 clarification. And let me address both parties.
10 Does the geology of that area affect this
11 contamination issue, the communication between the
12 aquifers?

13 MR. GALATI: Actually, I can -- we can
14 certainly provide some further clarification on
15 that. But, actually it does, in a positive way.
16 There is a very substantial aquitard between the
17 upper aquifer and the lower aquifer that we
18 believe substantially restricts migration of the
19 waters from the upper aquifer to the lower
20 aquifer.

21 And in that area, that particular lower
22 aquifer is being used for many of the potable
23 water systems, and being used successfully without
24 contamination. so, that would be one of the
25 issues that would support changing the word in

1 Soil and Water 8 from water to contamination.

2 HEARING OFFICER FAY: And presumably
3 your comments will be reflected in the testimony
4 somewhere, since I assume you're not testifying?

5 MR. GALATI: I'm not -- actually I was.
6 Yes, in the testimony on soil and water resources
7 it is explained probably at least generally how I
8 just explained it.

9 HEARING OFFICER FAY: Okay. Does staff
10 concur with that?

11 MR. TRASK: Yes. I'll just add that the
12 geology more or less defines the aquifers. There
13 is a very solid, clear clay layer between the two
14 aquifers that essentially stops any migration.

15 HEARING OFFICER FAY: Okay. Any further
16 comments on geology and paleontology? I hear
17 none. Okay, power plant efficiency. I know
18 you've already summarized the testimony that
19 included that, just for the sake of reference
20 briefly touch on which Exhibit that was?

21 MR. GALATI: Mr. Davy, you previously
22 stated you were familiar with the testimony of
23 George Claypoole, identified in Exhibit 25. In
24 that testimony Mr. Claypoole identifies that the
25 project will be an efficient source of power for

1 the participating cities. Do you agree with that?

2 MR. DAVY: I agree with that.

3 MR. GALATI: No further testimony.

4 HEARING OFFICER FAY: Anything from the
5 staff regarding efficiency?

6 MR. RATLIFF: No.

7 HEARING OFFICER FAY: Thank you. And
8 how about reliability?

9 MR. GALATI: Just to identify, Mr. Davy.
10 Again, we're dealing with Exhibit 25, the
11 testimony of George Claypoole, and in that
12 testimony Mr. Claypoole states that he believes
13 the project will be a reliable source of power for
14 the participating cities. Would you agree with
15 that?

16 MR. DAVY: I agree with that.

17 MR. GALATI: No further testimony on
18 power plant reliability.

19 HEARING OFFICER FAY: All right. Staff,
20 anything further?

21 MR. RATLIFF: No.

22 HEARING OFFICER FAY: Any comments on
23 either power plant efficiency or reliability?

24 Okay, hearing none, we have to back to
25 transmission system engineering. If you can just

1 briefly reference that, Mr. Galati?

2 MR. GALATI: Mr. Davy, you had
3 previously identified that you were familiar with
4 Exhibit 27, the testimony of Jim Carlson, which in
5 part deals with transmission system engineering,
6 is that correct?

7 MR. DAVY: That's correct.

8 MR. GALATI: In that testimony Mr.
9 Carlson believes that the project will be able to
10 safely interconnect with the transmission grid
11 without adverse impacts. Do you agree with that
12 conclusion?

13 MR. DAVY: I agree with that.

14 MR. GALATI: We have no further
15 testimony on transmission system engineering.

16 HEARING OFFICER FAY: Anything from the
17 staff on that?

18 MR. RATLIFF: Mr. Fay, only to point out
19 that in the staff testimony you'll see a page 5.5-
20 1 that the city of Santa Clara is not part of the
21 ISO grid. And for that reason the ISO has not
22 provided testimony in this case, because the ISO
23 is not charged with the reliability for Santa
24 Clara's system. And that's just a distinction I
25 wanted to point out.

1 HEARING OFFICER FAY: Thank you for that
2 clarification. And, Mr. Trask, I don't know if
3 you can address this, but the staff just notes, on
4 page 5.5-6, that no downstream facilities will be
5 required. Does that essentially mean that this
6 project just fits very neatly within the needs of
7 the systems?

8 MR. TRASK: Yes, transmission lines is
9 an excellent project. It's plugging essentially
10 right into the city of Santa Clara's Silicon
11 Valley distribution system. And almost all will
12 be serving native loads, so yes, no out-of-area
13 impacts were created, and no further mitigation
14 was needed.

15 HEARING OFFICER FAY: Great. Thank you
16 for that. Okay, and finally, compliance
17 monitoring and facility closure. Not testimony in
18 the traditional sense, we just want to make sure
19 that there's a meeting of the minds on this.

20 MR. GALATI: I am going to have Ms.
21 Grenier testify, so I'd like her sworn at this
22 time.

23 Whereupon,

24 ANDREA GRENIER

25 was called as a witness and herein, after being

1 duly sworn, was examined and testified as follows:

2 MR. GALATI: Ms. Grenier, could you
3 please state your full name for the record, who
4 your employer is on this project, and what your
5 role is?

6 MS. GRENIER: Thank you. My name is
7 Andrea Grenier, I'm the owner and principle of
8 Grenier and Associates, and I'm serving as a
9 consultant to Silicon Valley Power, currently as
10 their environmental permitting manager for this
11 project, and also as their compliance manager for
12 the project.

13 MR. GALATI: Ms. Grenier, are you
14 familiar with your previously filed testimony
15 identified as Exhibit 28, compliance monitoring
16 and facility closure testimony of Andrea Grenier?

17 MS. GRENIER: Yes, I am.

18 MR. GALATI: And in that testimony you
19 give an opinion that you have reviewed the staff
20 assessment and staff assessment addendum, and
21 agree with the condition of certification. Is
22 that still correct today?

23 MS. GRENIER: Yes, it is.

24 MR. GALATI: In addition to Exhibit 28,
25 Mr. Fay, Ms. Grenier is sponsoring a portion of

1 Exhibit 1, specifically chapter four, on
2 compliance and closure. We have no further
3 testimony on this topic area.

4 HEARING OFFICER FAY: Thank you. Ms.
5 Grenier, are you familiar with the way that the
6 soil and water question regarding force majeure
7 has been handled in the Russell City decision?

8 MS. GRENIER: Yes.

9 HEARING OFFICER FAY: And has that even
10 come to a compliance stage as yet, where that
11 could be sort of tested in terms of the
12 relationship with the CPM?

13 MS. GRENIER: Not yet.

14 HEARING OFFICER FAY: Not yet, okay.
15 But you're not aware of any problems with that
16 approach, are you?

17 MS. GRENIER: No, sir.

18 HEARING OFFICER FAY: All right. Thank
19 you. Mr. Ratliff, anything from the staff?

20 MR. TRASK: We have no comments on the
21 general conditions. I did want to add a slight
22 clarification to Mr. Ratcliff's clarification
23 about the ISO, if this would be the appropriate
24 time to do that?

25 HEARING OFFICER FAY: Sure.

1 MR. TRASK: I just wanted to clarify
2 that the applicant does intend to participate, or
3 at least to be able to participate, in the ISO's
4 reliability markets, the automatic generation
5 control, spinning reserve, and possibly to become
6 a reliability must-run project, so in that sense
7 the ISO would have some dispatch ability for those
8 units when they participate in those markets.

9 HEARING OFFICER FAY: I see. Moving to
10 compliance, Mr. Trask, is there perhaps different
11 personnel involved in this compliance question on
12 the force majeure issue, soil and water, than in
13 the Russell City case, or has the staff changed
14 its position at all, or is just a case of being
15 sure that its gone through all the review, etc.?

16 MR. TRASK: I think actually it's more
17 in the area of soil and water that the analysts
18 there had some concerns about. It was not the
19 compliance manager, Mr. Shaw, he didn't express
20 any opinion either way. And it was more or less
21 the reaction was that almost any condition could
22 be acted given this same kind of relief.

23 However, since then the applicant has
24 clarified that there are some special
25 circumstances that apply here that back granting

1 that relief.

2 HEARING OFFICER FAY: Okay. And I
3 think, if I recall, I think one way that we
4 addressed this in Russell City is that the
5 applicant came back with some kind of narrowing
6 language so that there was guidance to CPM as to,
7 instead of just the term active guide, I think
8 that it was narrowed somewhat so that it wasn't --
9 it relieved staff's concern that it was a wide
10 open condition.

11 MR. TRASK: Depending on your theology,
12 all things are Acts of God.

13 HEARING OFFICER FAY: Right. So we try
14 to get away from faith-based licensing, and give
15 more specific criteria to the CPM. And so any
16 effort in that direction would probably alleviate
17 staff's concern, and yet still be able to meet the
18 applicant's need for flexibility.

19 MR. GALATI: Mr. Fay, was that after the
20 decision came out that there was some additional
21 clarifying language? Because we were proposing
22 the exact same language in the condition at
23 Russell City, where we believe that's been
24 clarified?

25 HEARING OFFICER FAY: No, I think that

1 adjustment was made before the decision came out,
2 so that what you see in the final decision
3 reflected the adjustments that were made. Okay
4 then, what I'd like to do then -- essentially,
5 that concludes our taking evidence on the topics
6 that were noticed for today, with the exception of
7 biological resources, which I said was put over.

8 And just talk about any, in any sort of
9 pre-hearing conference kind of mode, are things
10 coming together on biology, air quality, and are
11 we going to meet the schedule that we indicated at
12 the notice? Mr. Galati?

13 MR. GALATI: Yes, let me again take
14 biology. And again to summarize the testimony
15 that has previously been filed, and comments as
16 well as what was in our pre-hearing conference
17 statement.

18 We've been working closely with U.S.
19 Fish and Wildlife Service, and unfortunately
20 there's been a personnel gap with someone being on
21 jury duty for almost two weeks. We have touched
22 base with that person, who again assures us that
23 we will be getting the confirmation in writing
24 that confirms the many oral representations that
25 the project will qualify for a low-effect habitat

1 conservation plan review.

2 Again, we will file our testimony,
3 because it is already prepared. Assuming we get
4 that confirmation stating that we will not have
5 any issues with staff's approach, and we agree
6 with the conditions of certification as modified
7 in the addendum. And we'll file it the day we get
8 that confirmation, which we're still hoping we can
9 get it this week.

10 We think that biology should be done by
11 declaration in the same fashion that we've done
12 may of the other sessions today, and we think that
13 on June 11th we can handle that right away. We
14 certainly will keep the committee informed if that
15 plan changes in any way, shape or form, but we
16 don't anticipate it changing.

17 With respect to air quality --

18 HEARING OFFICER FAY: Before you look to
19 air quality, what's the backup if they still have
20 trouble writing this down?

21 MR. GALATI: There is potential backup
22 to bringing before the committee, and have the
23 committee decide, which is the appropriate model
24 to determine acreage. And we -- that is a
25 potential that that could occur. We're doing

1 everything we can to make sure that that does not
2 occur.

3 HEARING OFFICER FAY: Okay. Is it
4 possible that, if for some reason U.S. Fish and
5 Wildlife will write this down, that they'd send
6 the analyst here to address the committee? With
7 the idea of understanding the view, even if it's a
8 tentative view, the view of the federal agency in
9 supporting that in the record?

10 MR. GALATI: You bet. That would be an
11 intermediary backup plan, I think. We would
12 still, again, prefer to have that in writing, even
13 in an e-mail form, so that we can proceed. But,
14 again, our goal is not to allow biological
15 resources to delay us in any way, shape or form.

16 HEARING OFFICER FAY: Okay. And air
17 quality?

18 MR. GALATI: We've got some good news on
19 air quality. And that is that we believe the PDOC
20 will be issued this week. And, as the PDOC is
21 issued, we believe that the chances for comment
22 that would result in some length of time between
23 the PDOC comment period closing and the FDOC being
24 used has probably been greatly reduced with the
25 involvement of the agencies on the very -- I

1 would, it focused down to one condition, on a
2 particular back analysis.

3 So we feel very confident that we will
4 be prepared on June 11th, and we understand that
5 staff may opine as well whether they'll be
6 prepared on June 11th, to go forward and conclude
7 air quality. And we're hoping we have an FDOC
8 prior to June 11th.

9 If we didn't, we would ask you to hold
10 the record open to accept the FDOC into the record
11 after the evidentiary hearing. But we have a good
12 chance of making that FDOC prior to June 11th.

13 HEARING OFFICER FAY: On page three of
14 the notice for today's hearing we've got a little
15 schedule, and it shows the staff filing part two
16 of its staff assessment, including air quality and
17 alternatives -- and, by the way, I'll just
18 mention, if there's any supplement that the staff
19 feels the need to file on biology, they can
20 certainly do so at that time, that would be
21 appropriate.

22 Mr. Galati, when can you file your
23 testimony on those topics?

24 MR. GALATI: By May 28th.

25 MR. RATLIFF: I haven't checked the

1 calendar to determine whether that's a holiday --

2 HEARING OFFICER FAY: It's not. May
3 28th is a Thursday, and it's almost two weeks
4 before -- May 28th is a Wednesday, I'm sorry -- so
5 that is two weeks before our evidentiary hearing.
6 is that enough time for you?

7 MR. GALATI: Yes.

8 HEARING OFFICER FAY: Good. Okay, thank
9 you. Mr. Ratliff?

10 MR. RATLIFF: Yes, I agree with
11 everything Mr. Galati said regarding air quality,
12 and I hope that we will have an FDOC by the time
13 the June 11th hearing comes. If we don't,
14 presumably we'd have one very shortly thereafter,
15 and we can tie that whole thing up together and be
16 done with it.

17 Regarding the other issue, for
18 biological resources, I think I understand -- I
19 haven't had a chance to talk with Mr. Galati about
20 how we want to handle that issue if we can't get
21 U.S. Fish and Wildlife Service to confirm that
22 they're going to do a low-impact conservation
23 plan.

24 I think that the way we have modified
25 the staff's conditions in the biological portion

1 of our analysis -- what I'd propose we do as plan
2 B if we can't get that is to go ahead and have the
3 applicant and staff agree to the mitigation --
4 which we've been discussing for months -- in terms
5 of the habitat provisions for the checkerspot
6 butterfly, and the staff conditions, as they have
7 been modified at the request of the applicant, do
8 not require the provision of a habitat
9 conservation plan document for the permit to be
10 valid.

11 So, we can go forward in other words, I
12 think, without U.S. Fish and Wildlife Service if
13 they don't in fact provide a timely confirmation
14 of what they've told us orally. It would seem to
15 me that might be the way to go ahead and get
16 through this issue if we never get that kind of
17 confirmation that we've been led to understand is
18 coming.

19 So I wanted to explore that issue with
20 the applicant right now, to see if this might be
21 another way to proceed and try to finish the case.
22 Because we seem to be waiting, we've been waiting
23 a long time actually for the U.S. Fish and
24 Wildlife Service to give us that confirmation.

25 HEARING OFFICER FAY: Yes, is there any

1 reason that -- well, what I'm just throwing out
2 here is -- could the staff file any modification
3 that might be necessary to its staff assessment as
4 modified by the addendum, but just in its filing
5 that it makes on May 21st something that would
6 indicate that, if U.S. Fish and Wildlife doesn't
7 give the written approval in a timely way, then
8 staff recommends the following.

9 So that we have a plan B in writing, and
10 we can actually take action on that at the
11 evidentiary hearing, and either way, potential
12 impacts would be mitigated, and the staff would
13 know that they are comfortable with the approach
14 either way, so we're not dependent on U.S. Fish
15 and Wildlife. Is that --

16 MR. RATLIFF: I'd like to ask Mr. Galati
17 -- I mean, I'm putting him on the spot here -- but
18 I believe the way staff has fashioned it's
19 conditions now, without any further changes, we
20 could go to a plan B, and proceed to issue the
21 Energy Commission permit, with any further action
22 by U.S. Fish and Wildlife Service coming
23 afterwards and independent of our own permit, so
24 that it doesn't continue to slow down our process.

25 And I think that's the way we've worked

1 out the conditions now, and I'd like to check with
2 him to see if he believes that's also the case.

3 MR. GALATI: We make the commitment to
4 the committee that this is not going to slow down
5 our process at all, and while I'm not at liberty
6 to discuss right now what our plan is, I will tell
7 you that we don't anticipate having long, lengthy
8 hearings in biological resources.

9 And though we would like U.S. Fish and
10 Wildlife Service to respond to us, we believe that
11 that response is not necessary for the Commission
12 to move forward, and we agree with what Mr.
13 Ratliff is saying.

14 We would, however, like to continue to
15 have U.S. Fish and Wildlife Service pay attention
16 to us, and give us the appropriate response in
17 writing, and we believe that our current strategy
18 in going forward is allowing that to happen.

19 So, I'm very optimistic that, on June
20 11th, we will be able to come in and biological
21 resources -- either through some sort of plan B,
22 which is a minor modification maybe of what
23 staff's is, maybe no modification -- or we'll have
24 complete agreement and go forward.

25 So, I'm not anticipating -- and I know

1 that's probably not giving the committee a great
2 amount of detail -- but I think the June 11th
3 hearing will be very short on biological
4 resources.

5 HEARING OFFICER FAY: Okay. And I
6 assume you'll address that in your filing on May
7 28th at least to the extent that there's something
8 to say at that point.

9 MR. GALATI: Correct. We'll make that
10 decision on May 28th, and it will be final.

11 HEARING OFFICER FAY: And if these
12 parties-- I know it goes without saying -- that
13 obviously when the federal agencies decide
14 something, even if they do it after our license,
15 that's what controls. And our license would be
16 modified according to any changes that they
17 require.

18 We just want to be sure that we've got
19 everything in place, so that it causes as few
20 changes as possible. Obviously that's in your
21 interest as well. But it sounds like you're
22 anticipating this, and we don't want to get in the
23 way of your urging U.S. Fish and Wildlife to act
24 with dispatch. And if you achieve that, please
25 let us know how you did it.

1 All right, anything further then?

2 Mr. Trask?

3 MR. TRASK: Yes, Mr. Fay. I have one
4 clarification on the air quality section.

5 Although Mr. Ken Lim of the AQMD did communicate
6 that their goal is to get their PDOC out by this
7 Friday, he implied that perhaps could slip a few
8 days. I got out of that that perhaps as late as
9 next Wednesday.

10 I still think that, even if it does come
11 out as late as Wednesday, that staff could
12 possibly make the May 21st date, but I think to
13 reserve that to make it day by day, to delay from
14 that date to any corresponding from the delay from
15 receiving the PDOC.

16 HEARING OFFICER FAY: All right, can we
17 leave it this way. That you will definitely let
18 us know by the 21st on what you intend to do in
19 terms of filing, if you have to slip it. And I
20 would say that there would be a comparable slip in
21 the applicant's filing date.

22 And since the filing date for applicant
23 of May 28th is two weeks before the hearing, I
24 think we've got a little bit of room to work with
25 that. It sounds like staff is not anticipating

1 any surprises in applicant's filing, so that we do
2 have a little flexibility here. Mr. Galati, is
3 that something you can live with?

4 MR. GALATI: We can live with that.

5 HEARING OFFICER FAY: Okay. Good.

6 Thank you, Mr. Trask for that advisory. Okay,
7 anything further then? We have three topics that
8 remain completely open -- biological resources,
9 air quality, and alternatives -- and we are
10 holding the record open for further submittal on
11 the question of condition Soil and Water 8 and
12 staff will be providing a little more information
13 on transmission. Anything further?

14 MR. TRASK: Just to clarify, soil and
15 water 8 and Soil and Water 6, perhaps a little bit
16 on the wastewater discharge and then, I believe,
17 it was traffic and --

18 HEARING OFFICER FAY: Traffic, I'm
19 sorry, I said transmission. Traffic and
20 transportation, yes -- key word. Mr. Galati,
21 anything further?

22 MR. GALATI: No, thank you for your
23 time.

24 HEARING OFFICER FAY: I thank everybody
25 for being very efficient. Commissioner, anything?

1 COMMISSIONER ROSENFELD: No.

2 MR. GALATI: Oh, we would like to move
3 our Exhibits, if this is the right time?

4 HEARING OFFICER FAY: Yes. Please,
5 let's do it now.

6 MR. TRASK: Should we just go through
7 the topics and give the page numbers from staff
8 assessment and the addendum. In the area of
9 project description, the staff exhibit --

10 MR. RATLIFF: Would you like us to
11 provide that in a written form, so we don't have
12 to read it, or do you want it in the record right
13 now?

14 HEARING OFFICER FAY: I think you can
15 just move the Exhibits entirely, and then provide
16 that in written form. That would be helpful. Why
17 don't we go first with the applicant.

18 MR. GALATI: At this time we'd like to
19 move Exhibits 1 through 28 into evidence at this
20 time.

21 HEARING OFFICER FAY: Any objection?

22 MR. RATLIFF: No objection.

23 HEARING OFFICER FAY: Okay. So moved.

24 And staff?

25 MR. RATLIFF: Staff would move Exhibits

1 29, the FSA and -- I should say the staff
2 assessment -- and Exhibit 30, which is the
3 addendum to the staff assessment, into evidence at
4 this time.

5 HEARING OFFICER FAY: Okay, any
6 objection? So moved. And you can, you know, in
7 your filing on the 21st or when you get it in, you
8 can get any details that you were about to give on
9 the record. I think we can just do that in
10 writing, that's fine. All right, anything further
11 then?

12 MR. GALATI: No, thank you.

13 HEARING OFFICER FAY: Thank you all,
14 we're adjourned.

15 (Whereupon, at 10:49 the hearing was adjourned.)
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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
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I further certify that I am not of
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